

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
DECEMBER 18, 2007  
7:00 P.M.**

**ROLLCALL** Answering rollcall were Members Bennett, Housh, Masica, Swenson and Mayor Hovland.

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Bennett and seconded by Member Swenson approving the Council Consent Agenda as presented.

Roll call:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

**\*MINUTES OF THE REGULAR MEETING OF DECEMBER 4, 2007, AND WORK SESSION OF DECEMBER 4, 2007 APPROVED** Motion made by Member Bennett and seconded by Member Swenson approving the Minutes of the Regular Meeting of December 4, 2007, and Work Session of December 4, 2007.

Motion carried on a roll call vote - five ayes.

**MINUTES OF THE DECEMBER 3, 2007, TRUTH IN TAXATION MEETING APPROVED AS CORRECTED** Member Housh pointed out he had not attended the Monday, December 3, 2007, Truth In Taxation hearing, but was listed as present and voting in the minutes. **Member Housh made a motion, seconded by Member Bennett to approved the December 3, 2007 Truth In Taxation Hearing Minutes as corrected.**

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

**RESOLUTION NO. 2007-134 ADOPTED GRANTING PRELIMINARY DEVELOPMENT PLAN AND PRELIMINARY REZONING - 77<sup>TH</sup> & PARKLAWN AREA - WAYZATA PROPERTIES (GATEWAY)**  
Affidavits of Notice were presented, approved and ordered placed on file.

Planning Director Teague gave an overview of the proposed redevelopment for the Pentagon Tower and Pentagon Quads site. He said the applicant was proposing to build 634 senior housing units, an 80,000 square foot hotel, three office towers that would total 737,000 square feet and two above ground parking structures. He said the Pentagon Tower and Quad sites currently contained 660,500 square feet of office space. Mr. Teague said included in the project area were Burgundy Place, Walsh Title and the office building at 7600 Parklawn, which would remain. He reported the total site was 43.18 acres.

Mr. Teague said the current proposal before the Council was a Preliminary Development Plan Review, and that eventually the request would require:

- Comprehensive guide plan amendment from Office to Mixed Use. The mixed use designation would allow office, retail and residential uses;
- Rezoning from Planned Commercial District (PCD-2) and Planned Office District (POD) to Mixed Development District 6 (MDD-6);
- Zoning Ordinance Amendment for the MDD-6 District to reduce the minimum acreage from 50 acres to 20 acres; and
- Final Development Plans for each site.

Mr. Teague explained in order to obtain the above mentioned approvals, the applicant would need to complete a three step process consisting of:

1. **Preliminary Development Plan** - review by the Planning Commission and City Council, in which approval simply would allow the applicant to prepare an Overall Development

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Plan. Approval of the Preliminary Development Plan would not guarantee approval of the next steps.

2. **Overall Development Plan** - Overall Development Plan would be the official approval/denial state of the project. It would include official action on the comprehensive guide plan amendment, and the rezoning.
3. **Final Development Plan** - Each phase of this proposed multiple phase development would be subject to final site plan review by the planning commission and the city council. Final development plan would follow the same process as the overall development plan.

Mr. Teague said the first phase of the development would be the hotel, followed by a portion of the senior housing. The third phase would be more senior housing and a portion of the office towers; the 4<sup>th</sup> phase would be more senior housing; and the last phase would finish the senior housing and office towers.

Mr. Teague reported the Planning Commission recommended approval of the Preliminary Development Plan subject to the following conditions on an 8-1 vote.

1. The Overall Development Plan must be generally consistent with approved Preliminary Development Plan dated September 28, 2007, and revised October 4, 2007.
2. Sustainable design. The design and construction of the entire project must be done with the Sustainable Initiatives as outlined in the applicant's narrative.
3. Trail and sidewalk connections must be included as demonstrated and public easements must be established over all public sidewalks.
4. Dedication of a right-of-way to straighten out the curve at 77th Street and Parklawn (this area of easement would be subject to approval of the City Engineer).
5. The easternmost entrance off of 77th Street into the senior housing development must be designed as a shared entrance (with the golf course).
6. The four-story senior independent buildings that face 77th street must be designed so as not to appear as the back side of buildings.
7. All traffic mitigation measures as required by the Transportation Commission and traffic study must be followed.
8. The directional flows of the sanitary system must be resolved prior to any construction of the project.
9. The developer/applicant would be responsible to pay their fair share of any mitigation measures that would be required as part of an approval of the overall development plan for the site.
10. All buildings must be built with sprinkler systems, subject to review and approval of the Fire Marshall.
11. Buildings at 4970 West 77th Street shall be limited to 4 stories or 50 feet, whichever would be less, and must maintain a 50 foot setback from the rear lot line.
12. Convenience gasoline stations and drive-through windows shall be prohibited on the north side of 77th Street.
13. Compliance with all of the conditions outlined in the City Engineer's memo dated November 20, 2007.

The Council asked questions including: was the parking as proposed for the site adequate, with Barr Engineering excluded from the re-development could the requested rezoning then be considered spot zoning the Barr site; why were the existing Medical Office Building and Burgundy Place included in the re-development proposal, what heights would be allowed in the various MDD zoning districts, why was the MDD-6 district being suggested, how would the senior housing vs. market housing be preserved. Following staff's answers to Council questions, the proponent was introduced.

Jim Nelson, Wayzata Properties, 7790 Lochmere Terrace, stated he was the developer and was excited about the proposed project. Mr. Nelson said the first phase of the project would include the hotel which would be a Starwood business traveler hotel. He also said senior housing would be a part of the first phase, but at this time they were not sure which operator would be running the housing. Mr. Nelson

introduced Paul May and Dan Green of Miller Dunwiddie, Architects, who using a PowerPoint presentation reviewed the proposed Preliminary Development Plan for the Gateway Project as follows:

- Proposed NW office building – 230 GSF Office space (4-10 stories) with 100 parking stalls
- West parking ramp – proposed at 7 levels – 1350 parking stalls
- East office building – 260 GSF office space (4-10 stories) with 100 parking stalls
- East parking ramp – proposed at 5 levels – 1050 parking stalls
- Hotel 80,000 GSF, 150 proposed hotel rooms
- 62 townhouse units (1 ½ stories) with 124 enclosed parking stalls
- 366 independent living units with 309 enclosed parking stalls
- 206 assisted living units with 105 parking stalls at grade and 300 enclosed parking stalls

Mr. May and Mr. Green showed graphic depictions of the proposed re-development, outlined proposed access, egress and streets throughout the development, and displayed views of the site in its present development plus future depictions from different vantage points in adjoining residential neighborhoods. The development team answered Council's questions relative to the proposed re-development, phasing, height of proposed buildings, traffic circulation, busing, and site development.

#### Public Comment

Dwaine Lindberg, 7200 York Avenue South, represented the Bike Edina Task Force and stated the Task Force wanted to work with the developer in providing a connection to the promenade.

Ari Nelson Manti, Edina Chamber of Commerce President, 7701 Normandale Boulevard, spoke to the Chamber's resolutions in support of the proposal.

Gene Persha, 6917 Cornelia Drive, expressed concern over the phasing and length of time until the project would be complete. He asked about the completion of Burgundy Place, for a tree replacement policy and that sufficient bike lanes be provided.

Tom Fletcher, 4445 West 77<sup>th</sup> Street, said he generally supported the proposed redevelopment, but expressed concern that the project's length of time until completion was very long. Mr. Fletcher asked that when demolition happened, the developer be required to either commence building or to landscape the site. He also asked to be involved in any discussion of a median on West 77<sup>th</sup> Street.

Joellen Deever, 7405 Oaklawn Avenue, read a prepared statement expressing her concerns with the proposed development.

Dave Born, 4701 Hibiscus Avenue, expressed concern with height of the proposed development. He noted the pedestrian and bike path would be a good addition, but would not be without issues due to proximity to the golf course.

**Member Housh made a motion to close the public hearing.** Member Swenson seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

During the Council discussion, concern was expressed regarding the requested change in zoning, the proposed heights of the office buildings, the expansiveness of the proposed rezoning to MDD-6, traffic circulation, the view from West 77<sup>th</sup> Street and the phasing of the development.

**Member Swenson made a motion introducing Resolution No. 2007-134 and moving its adoption granting preliminary development plan and preliminary rezoning for the proposed re-development of the 77<sup>th</sup> & Parklawn Area for Wayzata Properties (Gateway) with the following conditions:**

1. The Overall Development Plan must be generally consistent with approved Preliminary Development Plan dated September 28, 2007, and revised October 4, 2007.

2. Sustainable design. The design and construction of the entire project must be done with the Sustainable Initiatives as outlined in the applicant's narrative.
3. Trail and sidewalk connections must be included as demonstrated and public easements must be established over all public sidewalks.
4. Dedication of a right-of-way to straighten out the curve at 77th Street and Parklawn (this area of easement would be subject to approval of the City Engineer).
5. The easternmost entrance off of 77th Street into the senior housing development must be designed as a shared entrance (with the golf course)
6. The four-story senior independent buildings that face 77th street must be designed so as not to appear as the back side of buildings.
7. All traffic mitigation measures as required by the Transportation Commission and traffic study must be followed.
8. The directional flows of the sanitary system must be resolved prior to any construction of the project.
9. The developer/applicant would be responsible to pay their fair share of any mitigation measures that would be required as part of an approval of the overall development plan for the site.
10. All buildings must be built with sprinkler systems, subject to review and approval of the Fire Marshall.
11. Buildings at 4970 West 77th Street shall be limited to 4 stories or 50 feet, whichever would be less, and must maintain a 50-foot setback from the rear lot line.
12. Convenience gasoline stations and drive-through windows shall be prohibited on the north side of 77th Street;
13. Compliance with all of the conditions outlined in the City Engineer's memo dated November 20, 2007;
14. The housing within this development must be senior housing;
15. Following completion of the proposed hotel, a large percentage of senior housing must be built prior to or along with non-residential uses;
16. Bike and bus traffic circulation be carefully considered throughout the development; and
17. With the exception of the buildings at 4930 77th Street West, future buildings North of West 77th Street development will be limited to four stories or 58 feet in height;

Member Housh seconded the motion

Ayes: Housh, Masica, Swenson, Hovland

Nay: Bennett

Motion carried

#### PUBLIC COMMENT

No one appeared to offer public comment.

**FIRST READING GRANTED TO ORDINANCE NO. 2007-21 AMENDING SECTION 180 OF THE CITY CODE TO REQUIRE REMOVAL OF MEMBERS FROM BOARDS AND COMMISSIONS WHO FAIL TO COMPLY WITH ATTENDANCE REQUIREMENTS** Mr. Hughes reviewed Ordinance No. 2007-21, which had been prepared at the direction of the City Council. The ordinance would amend Section 180 of the City Code with respect to the attendance requirements of board and commission members. Mr. Hughes explained the proposed amendment provided that a board, commission or committee member would be deemed to have resigned if they miss three consecutive meetings or failed to attend at least 75 percent of the regular or special meetings during a calendar year. The amendment would take effect for meetings January 2, 2008, and later.

**Member Masica made a motion granting first reading to Ordinance No. 2007-21 amending Section 180 of the City Code to require removal of members from boards, commissions and committees who fail to comply with attendance requirements.** Member Housh seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

**\*SPECIAL ASSESSMENT HEARING DATE SET (1/15/08) FOR GARBAGE AND REFUSE REMOVAL NO. REF-07** Motion made by Member Bennett and seconded by Member Swenson a special assessment hearing date of January 15, 2008, for Garbage and Refuse Removal Project No. REF-07.

Motion carried on a roll call vote - five ayes.

**REVIEW AND APPROVE TRAFFIC SAFETY REPORT OF DECEMBER 5, 2007** Member Bennett asked a question regarding parking changes between 4930 and 4948 France Avenue. Mr. Houle explained the parking changes were an interim measure until the full implementation of the Northeast Edina Transportation Study recommendations. Following a brief discussion, **motion made by Member Bennett and seconded by Member Masica adopting the Traffic Safety Report of December 5, 2007.**

Motion carried on a roll call vote - five ayes.

**\*APPROVAL OF THE 2008-2009 LABOR CONTRACT LOCAL 320 UNION - PUBLIC SAFETY DISPATCHERS** Motion made by Member Bennett and seconded by Member Swenson approving the 2008-2009 Labor Contract for Local 320 Union - Public Safety Dispatchers.

Motion carried on a roll call vote - five ayes.

**RESOLUTION NO. 2007-131 ACCEPTING VARIOUS DONATIONS** Mayor Hovland explained in order to comply with State Statutes; all donations to the City must be adopted by resolution and approved by a majority of favorable votes of the Council accepting the donations.

**Member Bennett introduced Resolution 2007-131, accepting various donations, and moved approval.** Member Swenson seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

**ANNUAL REAPPOINTMENTS MADE TO BOARDS, COMMISSIONS AND COMMITTEES** Mayor Hovland said staff had provided a list of those persons who had submitted their reappointment applications. **Member Bennett made a motion, seconded by Member Housh reappointing those persons who completed applications requesting reappointment as follows:**

Name	Committee	Term Exp.
Heather Randall King	Art Center Board	2/1/2011
John Helling	Board of Appeal & Equalization	2/1/2009
Craig Johnson	Board of Appeal & Equalization	2/1/2009
Jeffrey Johnson	Board of Appeal & Equalization	2/1/2009
Gordon Tuchenhausen	Board of Appeal & Equalization	2/1/2009
John Glover	Construction Board of Appeals	2/1/2011
Douglas Mayo	East Edina Housing Foundation	2/1/2011
Janet Johnson	Edina Community Health Committee	2/1/2011
Mark E Johnson	Edina Community Health Committee	2/1/2011
Mary Jo Kingston	Edina Community Health Committee	2/1/2011
Idelle Longman	Edina Community Health Committee	2/1/2011
Mary Brindle	Human Rights & Relations Commission	2/1/2011
Wayne Prochniak	Human Rights & Relations Commission	2/1/2011
Stephen Brown	Planning Commission	2/1/2011
Floyd Grabiell	Planning Commission	2/1/2011
Geoffrey Workinger	Transportation Commission	2/1/2011
Edward Schwartzbauer	Zoning Board of Appeals	2/1/2011

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried

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Member Swenson stated she believed the Council needed to consider the reappointment of John Lonsbury to the Planning Commission for an additional year even though he had reached term limits due to his leadership of the Comprehensive Plan Task Force. She referred to correspondence received from members of the Planning Commission relating their concern of losing his leadership during the final phase of the update to the Comp Plan. The Council discussed the issue with concern expressed over a reappointment that would not be in line with the term limits policy the Council enacted last year. Consensus was to make a one year re-appointment due to the special circumstances relating to the completion of the Comp Plan update. Following the discussion, **Member Housh made a motion, seconded by Member Swenson appointing John Lonsbury to a one year term until February 1, 2009, on the Edina Planning Commission.**

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

**INDEMNITY AGREEMENT - OPUS NORTHWEST APPROVED** Mr. Hughes said the City had entered into negotiations with Opus Northwest ("Opus") concerning the proposed redevelopment of the Edina Public Works property and the relocation of the Public Works facility to the Conagra building. He said the process associated with the City's consideration the projects will be extensive and will continue through the first half of 2008. This would mean the City would not take possession of the Conagra building until mid-summer of 2008.

Mr. Hughes stated based on the proposed schedule it would be inadvisable for the City to incur significant architect fees for possible renovation of a building that the City did not control and there was concern that delaying the start of architectural drawings for the renovation of the Conagra building would significantly delay the relocation of Public Works by several months.

Mr. Hughes explained that to resolve the situation, Opus would indemnify the City respect to architectural fees for schematic design. He said the schematic design process was estimated to take about sixty days and that it would be complete about the same time Opus would appear before the Council for preliminary consideration of the redevelopment plan for the existing Public Works site. Mr. Hughes said it was anticipated that an agreement would be negotiated if preliminary approval was granted that would address the balance of design services for the renovation. Concluding, Mr. Hughes explained the City Attorney had drafted an indemnity agreement to cover the schematic design stage of the project.

Member Masica stated that her son was an architect and was employed by Opus. She asked the City Attorney if this would constitute a conflict. Attorney Knutson asked Member Masica questions to ascertain whether or not she depended upon her son for any financial support. Based upon Member Masica's answers Mr. Knutson state he did not believe there was any conflict that would preclude Member Masica from discussing or voting on the issue.

Following a brief discussion, **Member Housh made a motion, seconded by Member Bennett to approve an indemnity agreement with Opus Northwest, L.L.C.**

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

**\*CONFIRMATION OF CLAIMS PAID** Motion made by Member Bennett and seconded by Member Swenson approving payment of the following claims as shown in detail on the check register dated December 6, 2007 and consisting of 27 pages: General Fund \$229,668.72; Communications Fund \$6,206.61; Working Capital Fund \$202,239.87; Art Center Fund \$19,355.07; Golf Dome Fund \$2,785.28; Aquatic Center Fund \$382.35; Golf Course Fund \$5,031.66; Ice Arena Fund \$6,714.67; Edinborough Centennial Lakes Fund \$2,310.97; Liquor Fund \$131,809.92; Utility Fund \$4,969.28; PSTF Agency Fund \$8,901.09; Total \$620,375.49 and for approval of payment of claims dated December 13, 2007 and consisting of 29 pages: General Fund \$124,925.03; Communications Fund \$1,149.53; Working Capital Fund \$63,060.64; Construction Fund \$2,087.37; Art Center Fund \$4,071.84; Golf Dome Fund \$215.99; Aquatic Center Fund \$365.00; Golf Course Fund \$13,179.92; Ice Arena Fund \$29,647.08;

Edinborough/Centennial Lakes Fund \$10,226.41; Liquor Fund \$308,891.25; Utility Fund \$461,489.48; Storm Sewer Fund \$753.15; Recycling Fund \$34,033.00; PSTF Agency Fund \$1,359.99; Total \$1,055,455.68 and for October 26, 2007 – November 26, 2007 Credit Card Transactions consisting of one page: Total \$2,281.56.

Motion carried on a roll call vote - five ayes.

**RESOLUTION NO. 2007-133 ADOPTED APPROVING THE 2008 OPERATING BUDGET AND SETTING THE 2008 TAX LEVY.** Affidavits of Notice were presented, approved and ordered placed on file.

Mr. Hughes said adoption of the 2008 Operating Budget and setting the 2008 Tax Levy was the final step in the process that had begun last summer. He said the Council had been through several reviews and meetings on the proposed budget culminating in the Truth In Taxation hearing on December 3, 2007. Mr. Hughes presented the General Fund Budget and tax capacity debt levies. He noted the twenty years of the referendum levy were set in 1996 when the GO Park and Recreation Bonds Series 1996B were issued and reset when those bonds were refunded by GO Park and Recreation Bonds Series 1005A. For both issues, all levies were set by law at 105% of the corresponding annual debt service payments. The debt service fund was now sufficient to cover any foreseeable tax shortages and a portion of the 2008 levy in excess of the annual debt service payment could be canceled. Future referendum levies remain at the 105% level and would require canceling a portion of the levy on an annual basis depending on the amount needed to maintain a sufficient debt service fund.

Mr. Hughes recommended adoption of Resolution No. 2007-133 approving the budget for 2008 expenditures at \$30,536,263.00, the Total Tax Capacity Levy at \$22,010,231.00 and the Total Market Value based Referendum Budget and Levy of \$595,438.00. He also requested approval of the transfer of \$185,794 surplus gymnasium construction funds to the Series 2005A debt service fund and \$650,000 of the General Fund un-appropriated surplus to the construction fund.

**Member Swenson made a motion closing the public hearing.** Member Housh seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

**Member Masica introduced and moved approval of Resolution No. 2007-133 approving the budget for 2008 expenditures at \$30,536,263.00, the Total Tax Capacity Levy at \$22,010,231.00 and the Total Market Value based Referendum Budget and Levy of \$595,438.00, and authorizing the transfer of \$185,794 surplus gymnasium construction funds to the Series 2005A debt service fund and \$650,000 of the General Fund un-appropriated surplus to the construction fund.** Member Swenson seconded the motion

Roll call:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

**RESOLUTION NO. 2007-132 APPROVED – YEAR 2008 PARK AND RECREATION FEES AND CHARGES** Member Swenson asked questions about the fees proposed for the Edinborough Play Park. Staff said the fees were structured as proposed in order to encourage season passes. Following the discussion, **Member Housh made a motion to adopt Resolution No. 2007-132 setting the 2008 Edinborough Park Admission fees.** Member Swenson seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

**SECOND READING GRANTED REGARDING ORDINANCE NO. 2007-19 AMENDING CODE SECTION 185 – INCREASING CERTAIN FEES** Mr. Hughes stated there had been no changes to the proposed 2008 fees set forth in Ordinance No. 2007-19 since it was first presented and granted first reading.

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**Member Swenson made a motion to grant second reading to Ordinance No. 2007-19 amending Schedule A of Edina Code Section 185, adopting the 2008 fees as presented.** Member Housh seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

**FIRST READING GRANTED REGARDING ORDINANCE NO. 2007-20 AMENDING UTILITY RATES FOR 2008**

Finance Director Wallin introduced Mark Ruff of Ehlers and Associates to review the rate study recently updated for the City of Edina. Mr. Ruff used a PowerPoint Presentation and reviewed the rate study outlining the goals of the utility systems; the fund operations, fund capacities, use of debt, proposed capital improvements, proposed rates and rate structure.

Council questions included: why were commercial clients billed at Tier 2, what has been constituent feedback since the three-tier system has been instituted, were the projected increases great enough to make the funds self sustaining including capital projects, a request for a projection of a third tier for commercial rates, what effect would that have on all rates throughout the community, residential and commercial, connection rates study for multiple-unit housing being presented. Following the discussion, **Member Housh made a motion to grant first reading to Ordinance No. 2007-20 amending the utility rates for 2008.** Member Swenson seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

**2008-2012 CAPITAL IMPROVEMENT PROGRAM APPROVED**

Mr. Hughes stated the Capital Improvement (CIP) program had been presented at a work session. He reminded that the CIP was a one-year budget and four year plan. Mr. Hughes suggested the two areas that would need additional work were the Edinborough future plans for improvements in 2010 and the Art Center Project which was shown also in 2010. He said both projects need greater refinement. Mr. Hughes said that the enterprise business plans will be presented over the winter months. Mr. Hughes noted that there was \$10,000,000 provided for the Public Works Building project, but added staff would be back within the next month to hold a public hearing on the potential bond sale for the project and would present greater detail at that time.

Member Bennett requested that a study session be scheduled to review the policy relative to the financing of traffic calming. Following the discussion, **Member Housh made a motion, seconded by Member Swenson approving the 2008-2012 Capital Improvement Program as presented.**

Ayes: Bennett, Housh, Masica, Swenson, Hovland.

Motion carried.

There being no further business on the Council agenda, Mayor Hovland declared the meeting adjourned at 10:20 p.m.

Respectfully submitted,

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Debra A. Mangen, City Clerk